

**HULL BOARD OF SELECTMEN
RULES AND REGULATIONS FOR CONSIDERATION OF REQUESTS FOR
HOST COMMUNITY AGREEMENTS**

1.00 Statement of Purpose and Scope of Authority

The Hull Board of Selectmen (“Board”) adopts the following rules and regulations to establish a fair, thorough, and transparent process by which the Board will evaluate each request to enter into a Host Community Agreement with the Town of Hull pursuant to M.G.L. c. 94G to operate a Marijuana Establishment (ME) or Medical Marijuana Treatment Center (MTC).

The Board is authorized to oversee the “general direction and management of the property and affairs of the town in all matters not otherwise provided for by law or by this code” (Town of Hull Town Code/By-laws, Chapter 53 – 1 A), and by the Town of Hull Charter and the Board’s general administrative and regulatory authority. Pursuant to M.G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, the Selectmen are empowered to decide whether to enter into a Host Community Agreement with any “applicant” who has “proposed locating a marijuana establishment or a medical marijuana treatment center” in the Town of Hull. M.G.L. c. 94G, §§ 1, 3.

On February 12, 2018, during a Special Town Meeting, the Town voted to amend the General By-laws, prohibiting all Marijuana Establishments other than those limited to the “sale, distribution, manufacture or cultivation of marijuana for medical purposes if licensed in accordance with applicable law,” and restricting the number of retail marijuana establishments to two. The rules and regulations set forth here complement the votes of Town Meeting, the General Bylaws and the Town’s Zoning By-Law, and are consistent with c. 94G, § 3 (“Local Control”), which explicitly preserves local authority to establish “reasonable safeguards on the operation of marijuana establishments [that are] not in conflict with this chapter or [CCC] regulations” (c. 94G, § 3(a)); to “govern the time, place and manner of marijuana establishment operations” (§ 3(a)(1)); and to “restrict the licensed cultivation, processing and manufacturing of marijuana that is a public nuisance” (§ 3(a)(3)).

Implementing guidance issued by the Cannabis Control Commission also stresses the independent authority of local officials: “the [CCC] encourages municipalities to carefully consider the impact of the particular marijuana establishment proposed for a community, as well as benefits it may bring in local revenue and employment, when negotiating [an HCA]” (CCC’s “Municipal Guidance” document) and to identify conditions and stipulations of responsibility between the municipality and the applicant (CCC’s “Guidance on Host Community Agreements” document). CCC regulations reinforce local control: “[N]othing in 935 CMR 501.000 [CCC regulations concerning Medical Use of Marijuana] shall be construed to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 935 CMR 501.000.” “(1) Marijuana Establishments and Marijuana Establishment Agents shall comply with all local rules, regulations, ordinances, and bylaws.” 935 CMR § 500.170. Any applicant for licensure of a Hull Site by the CCC must establish that it has executed a host community agreement with the Town of Hull, that the Town has accepted the Business’s plans to mitigate, noise, odor, and comply with local ordinances and bylaws, and that the Business will comply with all local codes, ordinances and bylaws. (935 CMR § 500.101.)

The Board recognizes that any Business seeking to establish a Medical Marijuana Treatment Center (“MTC”) (the Hull bylaw refers to these facilities under the CCC’s prior designation, “Registered Marijuana Dispensaries”) will, if a Host Community Agreement is reached, undergo Special Permit and Site Plan review by the Hull Planning Board of the physical site, traffic circulation and compliance with Hull votes of town meeting, general bylaws and zoning bylaws, and review by the CCC of many aspects of the proposed operation. The Board must, however, conduct its own review before entering into any Host Community Agreement, to ensure that any proposed operation is appropriately located for the needs of the town; will have appropriate staff, facilities, operational plans, business plans and sufficient funding; and will operate with sufficient technical skill, business competence and financial reserves to ensure that the Town of Hull will not be required to cope with underperformance or closure of an inappropriately sited MTC, loss of jobs, inability to generate projected community impact fees, and cost to the town of dealing with a Marijuana Enterprise that faces loss of funding, bankruptcy or other threats to its operation.

The Board of Selectmen will evaluate all requests to enter into Host Community Agreements in a thorough, fair, and transparent manner, applying the requirements and standards set out in the following rules and rules and regulations. To assist the Board in analyzing the suitability of a Business that requests a Host Community Agreement, these rules and regulations also authorize the Board, pursuant to M.G.L. ch. 44, § 53G and the Town’s general regulatory authority, to require any Business seeking a Host Community Agreement to pay reasonable fees for the employment of outside consultants to advise the Board on any issue relevant to the Board’s review.

The Board retains the authority to suspend or modify, in its discretion, as circumstances may warrant, these Rules and Regulations. A failure by the Board to comply with the terms of these Rules and Regulations shall not affect the validity of any decision of the Board.

These Rules and Regulations are effective immediately upon adoption by the Board, and shall apply to all requests for HCAs, whether submitted prior to adoption of these Rules and Regulations or not.

2.00 Submission of HCA Requests to the Board

A Business requesting an HCA shall submit, completely and truthfully, the information specified below, and any additional information the Town may request.

- 1) The name of the Business and documentation of its registration to do business in Massachusetts.
- 2) Documentary proof of notice as specified below that the Business intends to request a Host Community Agreement with the Town of Hull.

The notice shall state:

- a. The name of the individuals and entities who intend to request the HCA;
- b. The address of the site where the Business proposes to operate;

- c. The type of Marijuana Establishment or Medical Marijuana Treatment Center the Business proposes for the site.

Notice shall be provided as follows:

- a. by publication in a newspaper of general circulation in Hull once in each of two successive weeks, the first publication to be not less than fourteen days before submission of the HCA request;
 - b. by prepaid mail to abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list.
- 3) Resumes, including employment history, for every manager, director, member, employee, executive and volunteer.
 - 4) Identification of every Person, Entity or Close Associate with a 10% or greater equity interest or voting interest, or the Right to control the Business. (See definitions in 935 CMR § 501.002.)
 - 5) For Businesses that seek to function as Marijuana Treatment Centers (“MTCs”), proof of current MTC agent registration cards issued by the CCC pursuant to 935 CMR § 501.030 for the individuals in ¶ 2.
 - 6) Documentation specifying the site in Hull at which the Business seeks to operate, including metes and bounds description of property and all buildings, accessory buildings, storage containers and other structures or equipment to be used outside buildings and accessory buildings at the site (the “Hull Site”).
 - 7) Documentation fully detailing the Business’s ownership of, or the terms and duration of any other legal right to use, the Hull Site.
 - 8) The identity of all current employees of the Business who have experience in cannabis product design, cannabis cultivation, cannabis processing, cannabis marketing, cannabis distribution, cannabis sales and cannabis dispensing, and the specific experience of each employee;
 - 9) A statement of the planned scope of the Business’s operation at the Hull Site, including the License Classes for which it will apply, the products, if any it seeks permission to produce, and the cultivation tier, if any, the Business foresees at maximum production if cultivation is permitted by the Board.
 - 10) A statement of the projected revenues and expenses of the operation at the Hull Site, including revenues and expenses expected for each type of product the Business may seek permission to manufacture at the site, revenues and expenses for each type of product to be purchased from other producers, and revenues and expenses from each type of product to be sold to other businesses if the Business seeks permission to do so, all as may be permitted by the Board.
 - 11) A statement of all other locations at which the Business or its Affiliates plan to operate an MTC or Marijuana Establishment.
 - 12) A statement of the Business’s experience in the marijuana industry, including length and scope of experience in the specific types of operation proposed for the Hull Site;
 - 13) An analysis of the public need for an MTC at the Hull Site which takes into account the demand for MTC services by medical marijuana patients in Hull and surrounding communities, and the current and projected number of MTCs in Hull and surrounding communities.

- 14) The Business's Security plan, prepared by a qualified specialist acceptable to the Board, including a description of proposed or current security measures;
- 15) The Business's Traffic plan, prepared by a qualified specialist acceptable to the Board, demonstrating anticipated traffic impacts and the feasibility of mitigation;
- 16) The Business's plan for ensuring that no odors or noise associated with its operations will be detectable outside the buildings on the Hull Site.

3.00 Board Evaluation of HCA Requests

The Board will notify the Business within a reasonable time after submission, but in any event within 30 days,¹ whether its request for an HCA contains the information required by Section 2.00, above. Once the Business's submissions contain the information specified in Section 2.00, the Board will proceed with evaluation of the request. Nothing shall preclude the Board from requesting additional information.

Evaluation Standards: The Board will determine whether, and on what terms, to enter into a Host Community Agreement with the Business according to the following discretionary criteria:

- a. The demonstrated suitability and direct experience of the Business's personnel in the specific forms of cannabis cultivation, processing, marketing, sales and dispensing planned for the Hull Site, as well as the personnel's experience in the scope of operations planned for the Hull site;
- b. The depth of detail and the extent of evidentiary support in the business plan and the Business's demonstration of financial resources;
- c. The proximity of the Hull Site to other similar facilities, the extent to which the proposed operation at the Hull Site meets the needs of Hull and neighboring communities for similar facilities, and the extent to which the location of the Hull Site meets the geographic distribution needs of patients in Hull and neighboring communities;
- d. The impact of the Business's operation on Hull infrastructure, facilities, services, resources, neighborhoods and public areas;
- e. The adequacy of the Business's plans to prevent odors and noise;
- f. The adequacy of the Business's security plan and its ability to eliminate negative impacts on neighborhood.

Expert Consultants: The Board's evaluation may require retention of one or more consultants to advise the Board at the Business's expense, as authorized by M.G.L. ch. 44, § 53G and the general regulatory authority of the town. The Board will notify the Business within a reasonable time after the information required by Section 2.00 has been submitted, but within 30 days in any event,² of the identity of any consultants it has chosen, the issues on which it will

¹ This deadline and all others stated in these Rules and Regulations may be extended by agreement between the Selectmen and the Business or, with advance notice of seven (7) days, by the Selectmen. Failure to meet any deadline in these rules and regulations shall in no event constitute constructive agreement to a Host Community Agreement.

² See Footnote 1.

seek the consultant's opinions, and the consultant's fees. The Board reserves the right to retain under this section additional consultants as the evaluation process proceeds. All consultants will be asked to provide their opinions expeditiously in written reports, which will be shared with the Business.

Consultation With Other Boards, Agencies, Officials and Entities: In evaluating the request for an HCA, the Board may seek the opinions of other state and municipal boards, agencies, authorities and officials, and the opinions of persons and entities with experience relevant to the pending HCA request.

Discretionary Meeting or Meetings With Business During Board Evaluation: Within 45 days after receiving all consultants' reports,³ the Board may, at its discretion, conduct a meeting or meetings with representatives of the Business and the public to discuss whether the Board will enter into an HCA and, if so, the terms of an HCA. The Board will provide members of the public the opportunity to express their views at one or more of any such meetings the Board chooses, in its discretion, to convene.

Board Conclusions Concerning HCA: No later than 45 days⁴ after the last of any discretionary meetings with the Business and the public to assist the Board's evaluation, or, if no discretionary meetings are held, within 45 days of receipt of the final consultant report,⁵ the Board shall meet to consider whether it is willing to enter into an HCA and to decide the essential terms and conditions the Town would require in the requested HCA.

Final Drafting and Execution of HCA If the Board decides that it is willing to enter into an HCA, and has chosen the essential terms it will require in an HCA, it shall notify the Business of the required terms. The Business shall, within 15 days of this notification,⁶ inform the Board of any terms it wishes to include in an HCA. The Board shall meet to consider the Business's proposed terms and any additional terms or modifications the Board requires, and shall notify the Business within 15 days⁷ of its decision on additional or modified terms. Upon final agreement, the parties shall execute the Host Community Agreement.

If the parties are unable to reach agreement, the Board will send the Business written confirmation that its request for an HCA has been denied.

Adopted: September 23, 2020

³ See Footnote 1.

⁴ See Footnote 1.

⁵ See Footnote 1.

⁶ See Footnote 1.

⁷ See Footnote 1.